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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:

8:11-cv-00485-AG (AJW)

**DECLARATION OF PHILIP J.
BERG, ESQUIRE**

Date of Hearing: September 12, 2011
Time of Hearing: 10:00 a.m.
Location: Courtroom 10D

DECLARATION OF PHILIP J. BERG, ESQUIRE

I, Philip J. Berg, Esquire, am over the age of 18 and am a party to the within action. I have personal knowledge of the facts herein, and if called to do, I could and would competently testify. I am making this Declaration under the penalty of perjury of the Laws of the United States pursuant to 28 U.S.C. §1746.

1. I am an Attorney in good standing, licensed to practice law in the Commonwealth of Pennsylvania. I am licensed to practice in the U.S. District Courts, Middle and Eastern District of Pennsylvania; Third Circuit

1 Court of Appeals; the Pennsylvania Supreme Court; and the U.S. Supreme
2 Court. I was granted *Pro Hac Vice* admission in this Court and represent the
3 Plaintiffs herein.
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5 2. I originally filed this case in Federal Court in the United States
6 Eastern District of Pennsylvania on May 4, 2009.
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8 3. Oracle's Motion to Dismiss is premature as to certain Causes of
9 Action outlined in Plaintiffs Response in Opposition to Oracle's Motion. In
10 particular, Cause of Action Twenty, Res Ipsa Loquitur. Discovery has **not**
11 commenced with Defendants Yosef Taitz, Oracle or Daylight Chemical
12 Information Systems, Inc. ["Daylight"] as of this date.
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15 4. Once discovery commences, it is imperative for Plaintiffs to receive
16 all the **source codes** used by Defendants Yosef Taitz, Oracle and Daylight
17 on their products supplied to and used by the Reed Defendants and
18 Defendant Intelius from the time period of January 1, 2009 to current.
19 Plaintiffs also anticipate the need for **extensive electronic discovery**.
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22 5. On May 20, 2011, Plaintiffs filed their proposed First Amended
23 Complaint with 145 Exhibits. This was due to the fact there are numerous
24 Defendants and many events causing severe damages upon the Plaintiffs.
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26 6. On or about June 14, 2011, this Court granted Plaintiffs Leave to File
27 their First Amended Complaint without any exhibits. Now, Defendants
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1 Attorneys are screaming that Plaintiffs are attempting to bring in new
2 evidence in answering the Motions to Dismiss. This is **not** the case.

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4 7. For instance, Oracle claims that it is speculation on the part of
5 Plaintiffs that they are partnered with Yosef Taitz and Daylight. However,
6 as demonstrated in Exhibits “141” through “144” filed May 20, 2011,
7 Docket No. 190, it is by Oracle, Daylight and Yosef Taitz’s own admissions
8 on their websites that they are partnered.

9
10 8. In Oracle’s footnote 2 of their Motion to Dismiss, Oracle claims “Plaintiffs
11 speculate that version “8i” of Oracle’s database software incorporated code
12 authored by Daylight CIS...This implausible allegation is supported by **no** facts
13 whatsoever. Again, **not** true and dishonest. What Plaintiffs stated in their FAC,
14 on pages 75-76, ¶179 beginning with line 24 is “Yosef Taitz...Daylight CIS
15 developed and released “DayCartTM, an application using the unique extensibility
16 features of Oracle8i designed to fully integrate the molecular structures and
17 reactions in an Oracle8i database server environment”. The use of DayCart with
18 the Oracle server, unlocks the access of existing Oracle applications and tools
19 (such as dual program interface plug in applications) and footnotes Daylight’s
20 press release of July 13, 2000.

21 9. And, to further elaborate, as filed on May 20, 2011, Daylight explains at
22 <http://www.daylight.com/meetings/emug00/Kappler/intro.html> “**What is**
23 **DayCart?**” **A:** tools for integration of Daylight into Oracle database server
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1 environment". **"DayCart** integration of Daylight into Oracle database server
2 environment. Extend Oracle clients and servers with new chemistry capabilities".
3 **"Can I integrate the Daylight system with Oracle?** Yes, in cooperation with
4 Oracle, Daylight has created DayCart TM..." and at
5 <http://www.daylight.com/meetings/mug00/Delany/cartridge.html> "Daylight
6 Chemistry Cartridge". "The Daylight Chemistry cartridge is the result of several
7 distinct collaborative development projects within Oracle...
8 whitepaper/presentation will describe Oracle Cartridge technology, review the
9 history of the internal and external projects which have contributed to this effort,
10 describe the current Daylight Cartridge implementation, and provide a view of
11 future direction for the cartridge...From Oracle's point of view...expand the
12 capabilities of the Oracle database server in a modular, supportable
13 fashion...Interest generated from Mug98 **resulted in an ongoing Daylight/Oracle**
14 **project to generate requirements, develop a cartridge prototype, and refine**
15 **its functionality.**" [emphasis added].

16 10. People involved in the Daylight/Oracle project "Johnny Peterson (Oracle
17 CH)...Norah MacCuish (Daylight)... The paradigm for this version of the
18 cartridge was the "dayblob". Dayblob is a complete set of chemical functions and
19 a merlin-pool-like implementation of chemical searching **embedded completely**
20 **within Oracle.**" [emphasis added]. "The Daylight toolkit interfaces with the
21 Oracle server via callouts to the "extproc" utility. This utility provides a RPC-like
22 mechanism for performing C-language function calls. Daylight toolkit code is

1 wrapped inside this RPC layer for each of the defined cartridge functions.” As can
2 be seen, Oracle’s arguments to mislead this Court fail. Plaintiffs pleading in their
3 FAC against Oracle are far from “speculative or speculation” and Plaintiffs have
4 plead sufficient facts to support their Causes of Action against Oracle.
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6 11. All of the above can be found in Plaintiffs Complaint, and in Exhibits
7 on file with this Court.
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9 12. As also pointed out in Plaintiffs filings of May 20, 2001, Docket No.’s
10 190 through 190-27, the illegal access of Plaintiffs private data located on
11 Oracle’s clients, the Intelius and Reed Defendants, databases, servers and
12 computer systems by Yosef Taitz, was utilized through the back-door
13 configurations built into the web development tools collaborated with Oracle and
14 Daylight.
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16 13. Plaintiffs have met their burden and therefore Oracle’s Motion must
17 be Denied. In the alternative, I respectfully Request Leave to Amend
18 Plaintiffs Complaint to cure any deficiencies this Court feels exist.
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22 I declare under the penalty of perjury of the Laws of the United States and
23 California that the foregoing is true and correct.
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1 Executed this 18th day of August, 2011 in the Commonwealth of
2 Pennsylvania, County of Montgomery.
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4 /s/ Philip J. Berg
Philip J. Berg, Esquire, Declarant
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